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ABSTRACT

This draft of proposed legislation is issued by the president of the United States to establish a Department of Education. The official text contains findings and purposes, administrative division of the department, transfer of functions, provision of personnel, and other particulars. (LD)

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96th Congress, 1st Session - - - - - - - House Document No. 96-52

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ESTABLISHMENT OF A DEPARTMENT OF EDUCATION

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

A DRAFT OF PROPOSED LEGISLATION TO ESTABLISH A DEPARTMENT OF EDUCATION, AND FOR OTHER PURPOSES

U.S. DEPARTMENT OF HEALTH, EDUCATION & WELFARE
NATIONAL INSTITUTE OF EDUCATION

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FEBRUARY 13, 1979.—Message and accompanying papers referred to the Committee on Government Operations and ordered to be printed

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U.S. GOVERNMENT PRINTING OFFICE

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EA 012 166

To the Congress of the United States:

I am sending to the Congress today my proposal to establish a Department of Education.

There is a compelling need for the increased national attention a separate Cabinet department will bring to education issues. Our Nation's pluralistic education system, considered the most competent and open in the world, faces many problems and challenges: a decline in public confidence in the quality of education; unacceptably high rates of high school dropouts and of young people who lack basic educational tools and specific skills for productive employment; and increasing demands for retraining and learning opportunities.

The primary responsibility for education in our Nation lies with State and local government. The Federal government has a limited, but critical responsibility to help public and private institutions meet these challenges: to ensure equal educational opportunities; to increase access to postsecondary education by low and middle income students; to generate research and provide information to help our educational systems meet the special needs; prepare students for employment; and encourage improvements in the quality of our education. The achievement of each of these goals will be enhanced by a new Department of Education.

Through our legislative and budget initiatives of the past two years, this Administration has given high priority to meeting these educational commitments. My budget for FY 1980 provides for $13.3 billion in education outlays, about a 45 percent increase above the level when I came into office. Last year, we established a legislative framework, the Middle Income Student Assistance program, to help solve one of our major education problems—the growing cost of a college education. The establishment of a Cabinet Department of Education will reflect the continued high priority my Administration places on education.

A Department of Education will bring our Nation's educational challenges and the Federal government's role in meeting them to the forefront of domestic policy discussion. Such discussion is vital to an activity that directly affects 60 million students, teachers and educational employees and constitutes a $120 billion public and private enterprise.

Establishing a separate Department will create, for the first time, a Cabinet-level advocate for education with direct access to the President, the Congress, and the public.

Second, it will give Federal education programs the full-time, high-level leadership and management that they cannot receive in a structure so large and complex as the Department of Health, Education, and Welfare. This will allow the Federal government to fulfill its responsibilities in education more effectively. It will eliminate duplication in the administrative and staff support activities within the Office of the HEW Secretary and the Education Division. It will allow im-

proved financial management and more efficient administration of education programs. Separation of the education functions from HEW will also promote improved management of its closely-related health and welfare responsibilities.

Third, it will provide greater accountability. Submerged beneath HEW's dominant functions of health and welfare, Federal education programs lack full-time accountability at the Cabinet level. With a separate Department of Education, one Cabinet member will report directly to the President and be accountable to the Congress and the American people for the conduct of Federal education policies.

Fourth, it will provide simpler, more reliable, and more responsive support to states, localities, public and private institutions, giving them a direct line of Cabinet-level contact with the Federal government.

Fifth, the new Department will allow better coordination of education programs with related Federal activities, such as employment programs and research. It will also allow high-level consideration of the impact of other Federal policies, such as tax and energy, on education institutions and students.

Under the proposal I am submitting today, the Department of Education will include more than 150 programs and 16,200 employees. With a budget of more than $13 billion, this Department will be larger than five other Departments including Energy, Commerce, Justice, Interior and State.

In addition to the 140 programs in the Education Division of the Department of Health, Education, and Welfare, the new Department of Education will handle educational activities now carried out by several other departments. These include: the U.S. Department of Agriculture School, certain science education programs of the National Science Foundation, the overseas dependents' schools of the Department of Defense, the college housing loan program of the Department of Housing and Urban Development, the Law Enforcement Education and the Law Enforcement Internship Program of the Department of Justice, and the Migrant Education programs of the Department of Labor.

The proposed legislation establishes within the Department of Education separate Offices for Civil Rights, Elementary and Secondary Education, Postsecondary Education and Educational Research and Improvement, each headed by an Assistant Secretary. It establishes an office to administer functions related to the education of overseas dependents of Department of Defense personnel, an Inspector General, and a 20-member Intergovernmental Advisory Council on Education, appointed by the President, to promote better relations with the various levels of government and private institutions.

I urge the Senate and the House of Representatives to act promptly on this important proposal.

JIMMY CARTER.

THE WHITE HOUSE, *February 13, 1979.*

A BILL TO establish a Department of Education, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Department of Education Organization Act".

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DEFINITIONS

SEC. 2. (a) As used in this Act, unless otherwise provided or indicated by the context, the term "Department" means the Department of Education or any component thereof; the term "Secretary" means the Secretary of Education; and the term "Under Secretary" means the Under Secretary of Education.

(b) As used in this Act, the term "function" includes any duty, obligation, power, authority, responsibility, right, privilege or activity.

(c) As used in this Act, unless otherwise provided or indicated by the context, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands and the Trust Territory of the Pacific Islands.

(d) As used in this Act, unless otherwise provided or indicated by the context, the words "private" and "private educational" refer to independent, nonpublic and private institutions of elementary, secondary, higher and postsecondary education.

(e) As used in this Act, unless otherwise provided or indicated by the context, the terms "office" and "unit" include any office, institute, council, unit, organizational entity or component thereof.

TITLE I—FINDINGS AND PURPOSES

FINDINGS

SEC. 101. The Congress of the United States finds that:

(a) education is fundamental to the development of individual citizens and the progress of the Nation as a whole;

(b) there is a continuous need to ensure equal access for all Americans to educational opportunities of a high quality;

(c) the primary responsibility for education resides with States, localities and private institutions;

(d) the American people benefit from a diversity of educational settings, including public and private schools, libraries, museums and other institutions, the workplace, the community and the home;

(e) the current structure of the executive branch fails to recognize the importance of education and does not allow sufficient Presidential and public consideration of education issues;

(f) there is a need for improvement in the management of Federal education programs to support more effectively State, local and private institutions in carrying out their educational responsibilities;

(g) there is a need for improved coordination of Federal education and related programs; and

(h) there is no single, full-time, Federal education official directly accountable to the President, the Congress and the people.

PURPOSES

SEC. 102. The Congress therefore declares that the establishment of a Department of Education is in the public interest and will promote the general welfare of the United States. Establishment of this Department will help ensure that education issues receive proper treatment at the Federal level and will enable the Federal Government to coordinate its education activities more effectively. The major purposes of the Department are:

(a) to strengthen the Federal commitment to ensuring access to equal educational opportunity for every American;

(b) to support more effectively States, localities and public and private institutions in carrying out their responsibilities for education;

(c) to promote improvements in the quality and usefulness of education through federally supported research, evaluation and the sharing of information;

(d) to improve the management and efficiency of Federal education activities;

(e) to increase the accountability of Federal education programs to the President, the Congress and the public;

(f) to encourage the involvement of the public, parents and students in Federal education programs; and

(g) to improve the coordination of Federal education programs.

PROHIBITION AGAINST FEDERAL CONTROL OF EDUCATION

SEC. 103. No provision of law relating to a program administered by the Secretary or by any other officer or agency of the executive branch of the Federal Government shall be construed to authorize the Secretary or any such officer or agency to exercise any direction, supervision or control over the curriculum, program of instruction, administration or personnel of any educational institution, school or school system; over any accrediting agency or association; or over the election of library resources, textbooks or other instructional material by any educational institution or school system, except to the extent authorized by law.

TITLE II—ESTABLISHMENT OF THE DEPARTMENT

ESTABLISHMENT

SEC. 201. (a) There is hereby established an executive department to be known as the Department of Education. There shall be at the head of the Department a Secretary of Education, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall be compensated at the rate provided for level I of the executive schedule under section 5312 of title 5 of the United States Code. The Department shall be administered, in accordance with the provisions of this Act, under the supervision and direction of the Secretary.

(b) There shall be in the Department an Under Secretary, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall be compensated at the rate provided for level III of the executive schedule under section 5314 of title 5 of the United States Code. The Under Secretary shall act for and exercise the functions of the Secretary during the absence or disability of the Secretary or in the event the office of Secretary becomes vacant. The Secretary shall designate the order in which other officials shall act for and perform the functions of the Secretary during the absence or disability of both the Secretary and Under Secretary or in the event of vacancies in both of those offices. The Under Secretary shall also be responsible for intergovernmental relations in the Department.

PRINCIPAL OFFICERS

SEC. 202. (a) There shall be in the Department six Assistant Secretaries reporting directly to the Secretary, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall be compensated at the rate provided for level IV of the executive schedule under section 5315 of title 5 of the United States Code. An Assistant Secretary shall head each of the Offices created by sections 203, 204, 205, and 206 of this Act.

(b) In addition, there shall be in the Department six officers reporting directly to the Secretary, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall be compensated at the rate provided for level V of the executive schedule under section 5316 of title 5 of the United States Code.

(c) The officers created by this section shall perform, in accordance with applicable law, such of the functions delegated to or vested in the Secretary or in the Department as the Secretary shall from time to time prescribe (in accordance with the provisions of this Act), including, but not limited to, the following functions:

(1) congressional relations functions;
(2) public information functions;
(3) management and budget functions;
(4) planning, evaluation and policy development functions; and
(5) encouraging and monitoring involvement of parents, students and the public in departmental programs.

(d) Except as otherwise provided by this Act,

(1) when the name of a person to serve as an officer created by either subsection (a) or subsection (b) is submitted to the Senate for confirmation, the President shall designate the particular functions that person shall exercise upon taking office; and

(2) notwithstanding the provisions of paragraph (1) of this subsection, the Secretary may from time to time allocate or reallocate functions of the Department among the subordinates of the Secretary and name and rename the titles of the offices they hold.

OFFICE FOR CIVIL RIGHTS

SEC. 203. (a) There shall be established in the Department an Office for Civil Rights headed by an Assistant Secretary for Civil Rights who shall be one of the Assistant Secretaries created by section 202(a) of this Act.

(b) Notwithstanding the provisions of section 422 of this Act, the Secretary shall delegate to such Assistant Secretary all functions, other than administrative and support functions, vested in the Secretary by section 301(a)(3) of this Act.

(c) The Assistant Secretary for Civil Rights shall make annual reports to the Secretary and to the Congress summarizing the compliance and enforcement activities of the Office for Civil Rights and identifying significant civil rights or compliance problems as to which such Office has made a recommendation for corrective action or as to which, in the judgment of the Assistant Secretary, adequate progress is not being made.

(d) Notwithstanding any other provision of law, the reports required by or under this section shall be transmitted to the Secretary and the Congress by the Assistant Secretary for Civil Rights without further clearance or approval. The Assistant Secretary shall provide copies of the reports required under subsection (c) to the Secretary sufficiently in advance of their submission to Congress to provide a reasonable opportunity for comments of the Secretary to be appended to the reports when submitted to Congress.

(e) In addition to the authority otherwise provided by this section, the Assistant Secretary for Civil Rights, in carrying out the provisions of this section, is authorized—

(1) to collect or coordinate collection of data necessary to ensure compliance with civil rights laws within its jurisdiction;

(2) to select, appoint and employ such officers and employees, including staff attorneys; as may be necessary to carry out the functions of the Office, subject to provisions governing appointments in the competitive service and the provisions of chapter 51 and subchapter III of chapter 53 of title 5 of the United States Code, relating to classification and General Schedule pay rates; and

(3) notwithstanding any other provision of this Act, to obtain services as authorized by section 3109 of title 5 of the United States Code at daily rates not to exceed the equivalent rates prescribed for grade GS–18 of the General Schedule by section 5332 of such title.

OFFICE OF POSTSECONDARY EDUCATION

SEC. 204. There shall be in the Department an Office of Postsecondary Education headed by one of the Assistant Secretaries created by section 202(a) of this Act. The Assistant Secretary shall administer such functions affecting postsecondary education, both public and private, as the Secretary shall delegate to the Office and shall serve as the principal advisor to the Secretary on matters affecting public and private postsecondary education.

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

SEC. 205. There shall be in the Department an Office of Elementary and Secondary Education headed by one of the Assistant Secretaries created by section 202(a) of this Act. The Assistant Secretary shall administer such functions affecting elementary and secondary education, both public and private, as the Secretary shall delegate to the Office.

OFFICE OF EDUCATIONAL RESEARCH AND IMPROVEMENT

SEC. 206. There shall be in the Department an Office of Educational Research and Improvement headed by one of the Assistant Secretaries created by section 202(a) of this Act. The Assistant Secretary shall administer such functions and programs of the Department concerning research, development, demonstration, dissemination, evaluation and assessment activities as the Secretary shall delegate to the Office.

FUNCTIONS RELATING TO EDUCATION OF OVERSEAS MILITARY DEPENDENTS

SEC. 207. There shall be in the Department an office to administer functions relating to the education of overseas dependents of personnel of the Department of Defense the director of which shall be one of the officers created by section 202 of this Act.

GENERAL COUNSEL

SEC. 208. There shall be in the Department a General Counsel, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall be compensated at the rate provided for level IV of the executive schedule under section 5315 of title 5 of the United States Code.

OFFICE OF INSPECTOR GENERAL

SEC. 209. (a) Section 2(1) of the Inspector General Act of 1978 is amended by adding "the Department of Education," after "the Department of Commerce,".

(b) Sections 11(1) and (2) of such Act are amended by adding "Education," afer the word "Commerce,".

EXECUTIVE LEVEL POSITIONS

SEC. 210. The number of executive level positions published pursuant to section 5311(b)(1) of title 5 of the United States Code is hereby increased by 14.

INTERGOVERNMENTAL ADVISORY COUNCIL ON EDUCATION

SEC. 211. (a) There is hereby established an advisory committee to be known as the Intergovernmental Advisory Council on Education (hereinafter referred to as the "Council").

(b) The Council shall—

(1) provide a forum for representatives of Federal, State and local governments and public and private educational entities to discuss educational issues;

(2) make recommendations for the improvement of Federal education programs;

(3) promote better intergovernmental relations; and

(4) submit a report, biennially or as frequently as the Council deems it necessary, to the President and the Secretary reviewing the impact of Federal education activities upon State and local governments and public and private educational institutions, including an assessment of compliance with section 103 of this Act and of any change in the Federal role in education, and assessing both the extent to which Federal objectives are achieved and any adverse consequences of Federal actions.

(c)(1) The Council shall have twenty members, appointed by the President as follows:

(A) six elected State and local officials with general government responsibilities;

(B) five representatives of public and private elementary and secondary education, including board members, administrators and teachers;

(C) five representatives of public and private postsecondary education, including board members, administrators and professors; and

(D) four members of the public, including parents of students and students.

(2) The Under Secretary shall be an *ex officio* member of the Council.

(3) Each member shall have a term of four years: *Provided*, that no member serving pursuant to subparagraph (1)(A) of this subsection may serve on the Council beyond the period that such member holds an office qualifying such member for appointment under such subparagraph: *Provided further*, that the President shall divide the initial appointments to the Council into four groups of five members each for initial terms of one, two, three and four years.

(4) The President shall from time to time designate one member to chair the Council.

(d) The Council shall nominate and the Secretary shall appoint an executive director for the Council.

(e) The Secretary shall furnish such staff, services and support as shall be necessary for the operation of the Council.

INTERDEPARTMENTAL EDUCATION COORDINATING COMMITTEE

SEC. 212. (a) There is hereby established an Interdepartmental Education Coordinating Committee (hereinafter referred to in this Act as the "Committee").

(b) The Committee shall study and make recommendations for assuring effective coordination of Federal programs, policies and administrative practices affecting education, including—

(1) consistent administration and development of policies and practices among Federal agencies in the conduct of related programs;

(2) full and effective communication among Federal agencies to avoid unnecessary duplication of activities and repetitive collection of data;

(3) full and effective cooperation with the Secretary on such studies and analyses as are necessary to carry out the purposes of this Act; and

(4) coordination of related programs to assure that recipients of Federal assistance are efficiently and responsively served.

(c) The Committee shall be composed of the Secretary, who shall be the Chair, and representatives from those Federal agencies, commissions and boards that the President may from time to time deem appropriate with regard to the matters under consideration.

(d) The Director of the Office of Management and Budget, the Chairman of the Council of Economic Advisers, the Director of the Office of Science and Technology Policy and the Executive Director of the Domestic Policy Staff may each designate a staff member to attend meetings of the Committee.

(e) The Secretary may establish subcommittees of the Committee to facilitate coordination in important areas of Federal activity.

(f) The Secretary and each Federal agency represented on the Committee under the provisions of subsection (c) of this section shall furnish necessary assistance to the Committee.

TITLE III—TRANSFERS

TRANSFERS FROM THE DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SEC. 301. (a) There are hereby transferred to and vested in the Secretary—

(1) all functions, programs and offices vested in the Assistant Secretary for Education (or in the Office of such Assistant Secretary) or in the Education Division of the Department of Health, Education, and Welfare, or in any officer or component thereof;

(2) all functions, programs and offices vested in the Secretary of Health, Education, and Welfare or the Department of Health, Education, and Welfare:

(A) under the General Education Provisions Act;

(B) under the Elementary and Secondary Education Act of 1965;

(C) under the Emergency School Aid Act;

(D) under the Higher Education Act of 1965;

(E) under the Education Amendments of 1978;

(F) under the Act of August 30, 1890 (7 U.S.C. 321–328);

(G) under the Environmental Education Act;

(H) under the National Defense Education Act of 1958;

(I) under the Education of the Handicapped Act;

(J) under part B of title V of the Economic Opportunity Act of 1965;

(K) under subparts I and II of part C of title VII and part B of title VIII of the Public Health Service Act;

(L) under the National Commission on Libraries and Information Science Act;

(M) under the Vocational Education Act of 1963;

(N) relating to Gallaudet College, Howard University, the American Printing House for the Blind and the National Technical Institute for the Deaf;

(O) under the Model Secondary School for the Deaf Act;

(P) relating to the telecommunications demonstration program under subpart A of part IV of title III of the Communications Act of 1934;

(Q) under section 2030(k) of the Federal Property and Administrative Services Act of 1949, and

(R) under the Alcohol and Drug Abuse Education Act;

(3) all functions of the Department of Health, Education, and Welfare or the Secretary of Health, Education, and Welfare delegated to or vested in the Office for Civil Rights of such Department relating to functions transferred by this section;

(4) any advisory committee and authority for any advisory committee established by statute in or under the Department of Health, Education, and Welfare or the Secretary of Health, Education, and Welfare, giving advice or making recommendations that primarily concern education: *Provided that*, the Secretary may terminate or combine one or more of such advisory committees;

(5) the Institute of Museum Services in the Department of Health, Education, and Welfare and all functions vested in such Institute;

(6) the Advisory Council on Education Statistics and all functions vested in such Council; and

(7) the Federal Education Data Acquisition Council and all functions vested in such Council.

(b) There are hereby transferred to the Inspector General of the Department that portion of the Office of Inspector General of the Department of Health, Education, and Welfare that relates to functions transferred to the Secretary by this Act.

TRANSFERS FROM THE DEPARTMENT OF LABOR

SEC. 302. (a) There are hereby transferred to and vested in the Secretary all functions of the Secretary of Labor or the Department of Labor under section 303(c)(2) of the Comprehensive Employment and Training Act of 1973.

(b) The Secretary is authorized to conduct the functions transferred by subsection (a).

(c) Section 303(c)(3) of the Comprehensive Employment and Training Act is redesignated as subsection (d) and amended to read as follows:

"(d) For the purposes of carrying out subsection (b) and (c) of this section, the Secretary shall reserve from funds available for this title an amount equal to not less than 4⅝ percent of the amount allocated pursuant to section 202(a).".

TRANSFERS FROM THE DEPARTMENT OF DEFENSE

SEC. 303. (a) Notwithstanding the provisions of section 601 of this Act, there shall be transferred to and vested in the Secretary, at such time and in such manner as the President may designate, but not later than three years after the effective date of this Act, all functions and offices vested in the Secretary of Defense or the Department of Defense by the Defense Dependents' Education Act of 1978.

(b) Notwithstanding the provisions of section 422 of this Act, the Secretary shall delegate to the director of the office created by section 207 of this Act all functions, other than administrative and support functions, vested in the Secretary by subsection (a) of this section.

(c) Not later than one year after the effective date of this Act, the Secretary, after consultation with the Secretary of Defense, shall transmit to the Congress a plan for effecting the transfer of functions under this section and administering those functions. In designing this plan, the Secretary shall also consult with representatives of sponsors of students enrolled in overseas dependents' schools and of professional employee organizations and administrators of such schools.

TRANSFERS FROM THE NATIONAL SCIENCE FOUNDATION

SEC. 304. (a) There are hereby transferred to and vested in the Secretary all programs relating to science education of the National Science Foundation or its Director established prior to the effective date of this Act pursuant to section 3(a)(1) of the National Science Foundation Act of 1950, except such programs, as determined by the Director of the Office of Management and Budget (after consultation with the Director of the Office of Science and Technology Policy), that relate to (1) fellowships and traineeships integral to the support of scientific research and development, (2) ethical, value and science policy issues, or (3) communicating information to practitioners of science and technology and to nonscientists. Except as provided in section 301(a)(1) of this Act, no mission-oriented research functions or programs of the National Science Foundation nor of any other Federal agency shall be transferred by this Act.

(b) The Secretary is authorized to conduct the programs transferred by subsection (a). In conducting such programs, the Secretary shall consult, as appropriate, with the Director of the National Science Foundation.

(c) Nothing in this section is intended to repeal or limit the authority of the National Science Foundation or the Director of the National Science Foundation under section 3(a)(1) of the National Science Foundation Act of 1950 to initiate and conduct programs not established prior to the effective date of this Act.

TRANSFERS FROM THE DEPARTMENT OF JUSTICE

SEC. 305. There are hereby transferred to and vested in the Secretary all functions vested in the Attorney General, the Department of Jus-

tice or the Administrator of the Law Enforcement Assistance Administration (or any successor agency thereto) with regard to the student loan and grant programs known as the law enforcement education program and the law enforcement intern program authorized by subsections (b), (c) and (f) of section 406 of the Omnibus Crime Control and Safe Streets Act of 1968.

TRANSFERS FROM THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SEC. 306. There are hereby transferred to and vested in the Secretary all functions relating to college housing loans vested in the Secretary of Housing and Urban Development or the Department of Housing and Urban Development by title IV of the Housing Act of 1950.

EFFECT OF TRANSFERS

SEC. 307. The transfer of a function, program or office from an officer or agency to the Secretary or to the Department includes any aspect of such function, program or office vested in a subordinate of such officer or in a component of such agency.

TITLE IV—ADMINISTRATIVE PROVISIONS

PART A—PERSONNEL PROVISIONS

OFFICERS AND EMPLOYEES

SEC. 401. (a) The Secretary is authorized to appoint and fix the compensation of such officers and employees, including attorneys, as may be necessary to carry out the functions of the Secretary and the Department. Except as otherwise provided by law, such officers and employees shall be appointed in accordance with the civil service laws and their compensation fixed in accordance with title 5 of the United States Code.

(b)(1) Notwithstanding the second sentence of section 5108(a) of title 5 of the United States Code, the Secretary may place at grade levels GS–16, GS–17, and GS–18 a number of positions in such grades equal to the number assigned and employed on the day preceding the effective date of this Act in connection with functions transferred under this Act.

(2) Notwithstanding the second sentence of section 3104 of title 5 of the United States Code, the Secretary may establish within the Office created by section 206 of this Act all scientific, professional and technical positions outside the General Schedule assigned and employed on the day preceding the effective date of this Act in connection with functions, offices and programs transferred under this Act.

(3) Appointments under this subsection may be made without regard to the provisions of sections 3104 and 3324 of title 5 of the United States Code, if the individual appointed in such position is an individual who is transferred in connection with a transfer of functions, offices or programs under this Act and, immediately before the effective date of this Act, holds a position and duties comparable to those of the position to which appointed thereunder.

(4) Except as provided in subsection (c), the authority of the Secretary under this subsection to appoint personnel without regard to

sections 3104, 3324 and 5108(a) of title 5 of the United States Code shall cease with respect to any position when the person first appointed to fill such position leaves such position.

(5) For purposes of section 414(a)(3)(A) of the Civil Service Reform Act of 1978, an individual appointed under this subsection shall be deemed to occupy the same position as he or she occupied on the day before the effective date of this Act.

(c) The Secretary may appoint, without regard to the provisions of title 5 of the United States Code governing appointment in the competitive service, up to 112 scientific, technical or professional employees of the Office created by Section 206 of this Act and may compensate employees so appointed without regard to the provisions of chapter 51 and subpchapter III of chapter 53 of such title relating to classification and General Schedule pay rates. The rate of basic compensation for such employees shall not be equal to or in excess of the rate of pay currently paid for GS–16 of the General Schedule of section 5332 of title 5 of the United States Code.

(d) Subject to section 3134 of title 5 of the United States Code, but notwithstanding any other provision of law, the Director of the Office of Personnel Management shall establish positions within the Senator Executive Service for 15 limited term appointees. The Secretary shall appoint individuals to such positions as provided by Section 3394 of title 5 of the United States Code. Such positions shall expire on the latter of three years after the effective date of this Act or three years after the initial appointment to each position.

(e) Notwithstanding the transfer of functions effected by section 303 of this Act (and the consequent transfer of personnel), personnel performing such functions shall have commissary and post exchange privileges in facilities of the Armed Forces.

EXPERTS AND CONSULTANTS

SEC. 402. The Secretary may obtain services as authorized by section 3109 of title 5 of the United States Code at rates not to exceed the daily rate prescribed for grade GS–18 of the General Schedule under section 5332 of such title for persons in Government service employed intermittently.

PART B—GENERAL PROVISIONS

GENERAL AUTHORITY

SEC. 421. In carrying out the functions or conducting offices or programs transferred by this Act, the Secretary, or any officer or employee of the Department, may exercise any authority or part thereof available by law (including appropriations Acts) with respect to such function, office or program to the official or agency from which such function, office or program is transferred.

DELEGATION

SEC. 422. Except as otherwise expressly provided in this Act, the Secretary may delegate any function, office or program vested in the Secretary to such officers and employees of the Department as the

Secretary may designate and may authorize such successive redelegations of such function, office or program within the Department as the Secretary may deem to be necessary or appropriate.

REORGANIZATION

SEC. 423. The Secretary is authorized to establish, alter, consolidate or discontinue such organizational units or components within the Department as the Secretary may deem to be necessary or appropriate. Such authority shall not extend to the abolition of organizational units or components established by this Act, or to the transfer of functions, offices or programs vested by this Act in such organizational unit or component.

RULES

SEC. 424. The Secretary is authorized to prescribe such rules and regulations as the Secretary may deem necessary or appropriate to administer and manage the functions, offices and programs vested in the Secretary or the Department in accordance with chapter 5 of title 5 of the United States Code.

CONTRACTS

SEC. 425. Subject to the provisions of the Federal Property and Administration Services Act of 1949, the Secretary is authorized to make, enter into and perform such contracts, grants, leases, cooperative agreements or other similar transactions with Federal or other public agencies (including State and local governments) and private organizations and persons, and to make such payments, by way of advance or reimbursement, as the Secretary may deem necessary or appropriate to carry out functions and programs vested in the Secretary or the Department.

REGIONAL AND FIELD OFFICES

SEC. 426. The Secretary is authorized to establish, alter, discontinue or maintain such regional or other field offices as the Secretary may deem to be necessary or appropriate to perform functions and programs vested in the Secretary or the Department.

ACQUISITION AND MAINTENANCE OF PROPERTY

SEC. 427. (a) The Secretary is authorized to acquire (by purchase, lease, condemnation, or otherwise), construct, improve, repair, operate, and maintain schools and related facilities (but only to the extent that operation of schools and related facilities by the Department is authorized by this Act), laboratories, research and testing sites and facilities, quarters and related accommodations for employees and dependents of employees of the Department, personal property, or any interest therein, as the Secretary deems necessary; and to provide by contract or otherwise for eating facilities and other necessary facilities for the health and welfare of employees of the Department at its installations and purchase and maintain equipment therefor.

(b) The authority available to the Secretary of Health, Education, and Welfare under section 524 of the Education Amendments of 1976 shall also be available to the Secretary.

(c) The authority granted by subsection (a) of this section shall be available only with respect to facilities of a special purpose nature that cannot readily be reassigned from similar Federal activities and are not otherwise available for assignment to the Department by the Administrator of General Services.

FACILITIES AT REMOTE LOCATIONS

SEC. 428. (a) The Secretary is authorized to provide, construct, or maintain, as necessary and when not otherwise available, the following for employees and their dependents stationed at remote locations:

(1) emergency medical services and supplies;

(2) food and other subsistence supplies;

(3) dining facilities;

(4) audio-visual equipment, accessories and supplies for recreation and training;

(5) reimbursement for food, clothing, medicine and other supplies furnished by such employees in emergencies for the temporary relief of distressed persons;

(6) living and working quarters and facilities; and

(7) transportation for school-age dependents of employees to the nearest appropriate educational facilities.

(b) The furnishing of medical treatment under paragraph (1) of subsection (a) of the furnishing of services and supplies under paragraphs (2), (3) and (4) of subsection (a) shall be at prices reflecting reasonable value as determined by the Secretary.

(c) Proceeds from reimbursements under this section may be credited to the appropriations or funds that bear all or a part of the cost of such work or services or to refund excess sums when necessary.

USE OF FACILITIES

SEC. 429. (a) With their consent, the Secretary may, with or without reimbursement, use the research, equipment, services and facilities of any agency or instrumentality of the United States, of any State, or of any foreign government, in carrying out any function or program vested in the Secretary or in the Department.

(b) In carrying out his duties, the Secretary, under such terms, at such rates and for such periods (not exceeding five years), as the Secretary may deem to be in the public interest, is authorized to permit the use by public and private agencies, corporations, associations or other organizations, or by individuals, of any real property, or any facility, structure or other improvement thereon, acquired pursuant to sections 427 and 428, under the custody and control of the Secretary for Department purposes. The Secretary may require permittees under this section to recondition and maintain to a satisfactory standard, at their own expense, the real property, facilities, structures and improvements involved. This subsection shall not apply to excess property as defined in section 3(e) of the Federal Property and Administrative Services Act of 1949.

(c) Proceeds from reimbursements under this section may be credited to the appropriations or funds that bear all or a part of the cost of such work or services or to refund excess sums when necessary, except that such proceeds may be credited to a working capital fund otherwise lawfully established, including a fund established pursuant to section 432 of this Act and used under the law governing such fund.

(d) All interests in real property acquired pursuant to this Act shall be acquired in the name of the United States Government.

COPYRIGHTS AND PATENTS

SEC. 430. The Secretary is authorized to acquire any of the following described rights if the property acquired thereby is for use by or for, or useful to, the Department:

(a) copyrights, patents and applications for patents, designs, processes and manufacturing data;

(b) licenses under copyrights, patents and applications for patents; and

(c) releases, before suit is brought, for past infringement of patents or copyrights.

GIFTS AND BEQUESTS

SEC. 431. The Secretary is authorized to accept, hold, administer and utilize gifts, bequests and devises of property, both real and personal, for the purpose of aiding or facilitating the work of the Department. Gifts, bequests and devises of money and proceeds from sales of other property received as gifts, bequests or devises shall be deposited in the Treasury and shall be available for disbursement upon the order of the Secretary.

WORKING CAPITAL FUND

SEC. 432. (a) The Secretary, with the approval of the Director of the Office of Management and Budget, is authorized to establish for the Department a working capital fund, to be available without fiscal year limitation, for expenses necessary for the maintenance and operation of such common administrative services as the Secretary shall find to be desirable in the interests of economy and efficiency, including such services as a central supply service for stationery and other supplies and equipment for which adequate stocks may be maintained to meet in whole or in part the requirements of the Department and its components; central messenger, mail, telephone and other communications services; office space; central services for document reproduction, and for graphics and visual aids; and a central library service.

(b) The capital of the fund shall consist of any appropriations made for the purpose of providing working capital and the fair and reasonable value of such stocks of supplies, equipment, and other assets and inventories on order as the Secretary may transfer to the fund, less related liabilities and unpaid obligations. Such funds shall be reimbursed in advance from available funds of agencies and offices in the Department or from other sources, for supplies and services at rates that will approximate the expense of operation, including the accrual of annual leave and the depreciation of equipment. The fund shall also

be credited with receipts from sale or exchange of property and receipts in payment for loss or damage to property owned by the fund. There shall be covered into the Treasury as miscellaneous receipts any surplus of the fund (all assets, liabilities, and prior losses considered) above the amounts transferred or appropriated to establish and maintain such fund. There shall be transferred to the fund the stocks of supplies, equipment, other assets, liabilities and unpaid obligations relating to the services which the Secretary determines, with the approval of the Office of Management and Budget, will be performed.

FUNDS TRANSFER

SEC. 433. The Secretary may, when authorized in an appropriation Act in any fiscal year, transfer funds from one appropriation to another within the Department, except that no appropriation for any fiscal year may be thus increased or decreased by more than ten percent.

SEAL OF DEPARTMENT

SEC. 434. The Secretary shall cause a seal of office to be made for the Department of such design as the Secretary shall approve. Judicial notice shall be taken of such seal.

ANNUAL REPORT

SEC. 435. (a) The Secretary shall, as soon as practicable after the close of each fiscal year, make a single comprehensive report to the President for transmission to the Congress on the activities of the Department during such fiscal year. Such report shall include a statement of goals, priorities and plans for the Department together with an assessment of the progress made toward the attainment of those objectives, the more effective and efficient management of the Department and the coordination of its functions.

(b)(1) In preparing and developing the report required by subsection (a), the Secretary shall, to the maximum extent practicable, consult with members of the public, including representatives of parents, students, educators, State and local governments, private institutions, other organizations and individuals. The Secretary shall hold such public hearings in the District of Columbia and in such other locations as the Secretary deems appropriate to maximize public participation.

(2) The Secretary may reimburse any person for expenses reasonably incurred in the course of consultation or hearings under paragraph (1) if such person—

(A) has made or is likely to make a material contribution to the work of the Department; and

(B) could not otherwise participate fully and effectively in such consultation.

(3) For purposes of this section, the term "person" shall have the same meaning as in section 551(2) of title 5 of the United States Code.

AUTHORIZATION OF APPROPRIATIONS

SEC. 436. Subject to any limitation on appropriations applicable with respect to any function or program transferred to the Department or the Secretary, there are authorized to be appropriated such

sums as are necessary to carry out the provisions of this Act and to enable the Department and the Secretary to perform any function or conduct any program or office that may be vested in the Department or the Secretary. Funds appropriated in accordance with this section shall remain available until expended.

RELATIONSHIP TO GENERAL EDUCATION PROVISIONS ACT

SEC. 437. Except where inconsistent with the provisions of this Act, the General Education Provisions Act shall apply to functions transferred by this Act to the extent applicable on the day preceding the effective date of this Act.

TECHNICAL ADVICE

SEC. 438. (a) The Secretary is authorized, upon request, to provide advice, counsel and technical assistance to applicants or potential applicants for grants and contracts and other interested persons with respect to any functions or programs of the Secretary or the Department.

(b) The Secretary may permit the consolidation of applicants for grants or contracts with respect to two or more functions or programs administered by the Secretary or the Department: *Provided that*, such packaging or consolidation shall not alter the statutory criteria for approval of applications for funding with respect to such functions or programs.

TITLE V—TRANSITIONAL, SAVINGS AND CONFORMING PROVISIONS

TRANSFER AND ALLOCATION OF APPROPRIATIONS AND PERSONNEL

SEC. 501. (a) Except as otherwise provided in this Act, the personnel employed in connection with, and the assets, liabilities, contracts, property, records and unexpended balance of appropriations, authorizations, allocations and other funds employed, held, used, arising from, available to or to be made available in connection with the functions, programs, offices or portions thereof transferred by this Act, subject to section 202 of the Budget Accounting Act of 1950, shall be transferred to the Secretary for appropriate allocation. Unexpended funds transferred pursuant to this subsection shall be used only for the purposes for which the funds were originally authorized and appropriated.

(b) Positions expressly specified by statute or reorganization plan to carry out functions, offices or programs transferred by this Act, personnel occupying those positions on the effective date of this Act, and personnel authorized to receive compensation in such positions at the rate prescribed for offices and positions at level I, II, III, IV, or V of the executive schedule (5 U.S.C. 5312–5316) on the effective date of this Act, shall be subject to the provisions of section 503 of this Act.

EFFECT ON PERSONNEL

SEC. 502. (a) Except as otherwise provided in this Act, the transfer pursuant to this title of full-time personnel (except special Government employees) and part-time personnel holding permanent posi-

tions pursuant to this title shall not cause any such employee to be separated or reduced in grade or compensation for one year after the date of transfer to the Department.

(b) Any person who, on the day preceding the effective date of this Act, holds a position compensated in accordance with the executive schedule prescribed in chapter 53 of title 5 of the United States Code and who, without a break in service, is appointed in the Department to a position having duties comparable to those performed in such prior position shall continue to be compensated in such new position at not less than the rate provided for the previous position, for the duration of the service of such person in the new position.

AGENCY TERMINATIONS

SEC. 503. (a) The following offices shall terminate upon the transfer of functions or programs pursuant to this Act:

(1) the Education Division of the Department of Health, Education, and Welfare (but not the National Institute of Education);

(2) the Office of the Assistant Secretary for Education of the Department of Health, Education, and Welfare;

(3) the Office of Education and the Office of the Commissioner of Education of the Department of Health, Education, and Welfare; and

(4) the Office for Dependents' Schools of the Department of Defense.

(b) Each position which was expressly authorized by law, or the incumbent of which was authorized to receive compensation at the rate prescribed for level IV or V of the executive schedule (5 U.S.C. 5315–5316), in an office terminated pursuant to this Act shall also terminate.

(c) (1) The director of any office in the Department the director of which was required prior to the effective date of this Act to report to the Commissioner of Education or the Assistant Secretary for Education of the Department of Health, Education, and Welfare shall report to the Secretary.

(2) The Secretary is authorized to delegate reporting requirements vested in the Secretary by paragraph (1) of this subsection to any officer or employee of the Department.

INCIDENTAL TRANSFERS

SEC. 504. (a) The Director of the Office of Management and Budget, at such time or times as the Director shall provide, is authorized and directed—

(1) to make such determinations as may be necessary with regard to the transfer of functions, programs, offices or portions thereof that relate to or are utilized by an officer, agency, commission or other body, or component thereof, transferred by this Act; and

(2) to make such additional incidental dispositions of personnel, assets, liabilities, contracts, property, records and unexpended balances of appropriations, authorizations, allocations and other funds held, used, arising from, available to or to be made available

in connection with such functions, programs, offices or portions thereof, as the Director may deem necessary to accomplish the purposes of this Act.

(b) The Director shall provide for terminating the affairs of all offices terminated by this Act and for such further measures and dispositions as the Director deems necessary to effectuate the purposes of this Act.

(c) After consultation with the Director of the Office of Personnel Management, the Director of the Office of Management and Budget is authorized and directed, at such time as the Director of the Office of Management and Budget shall provide, to make such determinations as may be necessary with regard to the transfer of positions within the Senior Executive Service in connection with functions transferred by this Act.

SAVINGS PROVISIONS

SEC. 505. (a) All orders, determinations, rules, regulations, permits, grants, contracts, certificates and privileges that—

(1) have been lawfully issued, made, granted or allowed to become effective in the performance of functions or programs which are transferred under this Act to the Department after the date of enactment of this Act, and

(2) are in effect at the time this Act takes effect,

shall continue in effect according to their terms until lawfully modified, terminated, superseded, set aside or revoked.

(b) (1) The provisions of this Act shall not affect any proceedings (including, but not limited to, notices of proposed rulemaking) or any application for any license, permit, certificate or financial assistance pending at the time this Act takes effect before any department, agency, commission or component thereof, functions, offices or programs of which are transferred by this Act; but such proceedings and applications, to the extent that they relate to functions, offices or programs so transferred, shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted; and orders issued in any such proceedings shall continue in effect until lawfully modified, terminated, superseded, or revoked. Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this Act had not been enacted.

(2) The Secretary is authorized to promulgate regulations providing for the orderly transfer of such proceedings to the Department.

(c) Except as provided in subsection (e)—

(1) the provisions of this Act shall not affect suits commenced prior to the date this Act takes effect; and

(2) in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and effect as if this Act had not been enacted.

(d) No suit, action or other proceeding commenced by or against any officer in his official capacity as an officer of any department or agency, functions or programs of which are transferred by this Act, shall abate by reason of the enactment of this Act. No cause of action by or against any department or agency, functions or programs of

which are transferred by this Act, or by or against any officer thereof in his official capacity shall abate by reason of the enactment of this Act.

(e) If, before the date on which this Act takes effect, any department or agency, or officer thereof, in his official capacity, is a party to a suit, and under this Act any function, office or program of such department, agency or officer is transferred to the Secretary or any other official, then such suit, insofar as it relates to such function, office or program, shall be continued with the Secretary or other official, as the case may be, substituted.

SEPARABILITY

SEC. 506. If any provision of this Act, or the application thereof to any person or circumstance is held invalid, neither the remainder of this Act nor the application of such provision to other persons or circumstances shall be affected thereby.

REFERENCE

SEC. 507. With respect to any function or program transferred by this Act and exercised after the effective date of this Act, reference in any other Federal law to any department, commission or agency or any officer or office the functions or programs of which are so transferred shall be deemed to refer to the Secretary, other official or component of the Department in which this Act vests such functions.

AMENDMENTS

SEC. 508. (a) Section 19(d)(1) of title 3 of the United States Code is amended—

(1) by striking out "Secretary of Health, Education, and Welfare" and inserting in lieu thereof "Secretary of Health and Human Services"; and

(2) by inserting immediately before the period at the end thereof the following: ", Secretary of Education".

(b) Section 101 of title 5 of the United States Code is amended—

(1) by striking out "Health, Education, and Welfare" and inserting in lieu thereof "Health and Human Services"; and

(2) by adding at the end thereof the following: "The Department of Education.".

(c) Section 5108(a) of title 5 of the United States Code is amended by striking out "10,777" and inserting in lieu thereof "10,838".

(d) Section 5312 of title 5 of the United States Code is amended by adding at the end thereof the following:

"(15) Secretary of Education.".

(e) Section 5314 of title 5 of the United States Code is amended by inserting immediately after paragraph (4) thereof the following:

"(5) Under Secretary of Education.".

(f) Section 5315 of title 5 of the United States Code is amended—

(1) by striking out paragraph (17) and inserting in lieu thereof "(17) Assistant Secretaries of Health and Human Services (4).."; and

(2) by inserting immediately after paragraph (24) thereof the following:

"(25) Assistant Secretaries of Education (6).

"(26) General Counsel, Department of Education.

"(27) Inspector General, Department of Education.".

(g) Section 5316 of title 5 of the United States Code is amended by striking out paragraph (41) and by inserting in lieu thereof the following:

"(41) Officers, Department of Education, (6).".

(h) Subchapter II of chapter 53 of title 5 of the United States Code is further amended by striking out "Health, Education, and Welfare" each place it appears and inserting in lieu thereof "Health and Human Services".

(i) The Comprehensive Employment and Training Act of 1973 is amended as follows:

(1) Section 111(a) shall read:

"SEC. 111(a). The Secretary of Labor shall consult with the Secretary of Health and Human Services with respect to arrangements for services of a health or welfare character under this Act. The Secretary of Labor shall consult with the Secretary of Education with respect to arrangements for services of an educational nature under this Act, and the Secretary of Education and the Secretary of Health and Human Services shall solicit the advice and comments of appropriate State agencies with regard to, respectively, education and health and welfare services. Such services shall include basic or general education; educational programs conducted for offenders; institutional training; health care, child care, and other supportive services; and new careers and job restructuring in the health, education, and welfare professions."

(2) Section 127(b) is amended by striking out "and the Secretary of Health, Education, and Welfare" in the first line and inserting in lieu thereof, "the Secretary of Education and the Secretary of Health Human Services".

(3) Section 311(g) is amended by striking out "Health, Education, and Welfare," and inserting in lieu thereof "Health and Human Services, Department of Education,";

(4) Section 314 is amended by striking out "Health, Education, and Welfare" and inserting in lieu thereof "Education";

(5) Section 438(a)(2) is amended by striking out the words "Health, Education, and Welfare," and inserting in lieu thereof the words "Education, Secretary of Health and Human Services,";

(6) Section 502(a) is amended by

(A) striking out the number "15" and inserting in lieu thereof "16"; and

(B) striking out the words ", Health, Education, and Welfare," in paragraph (1) and inserting in lieu thereof the words "Education, Secretary of Health and Human Services".

(j) Section 5 The Alcohol and Drug Abuse Education Act is amended—

(1) by inserting after the word "Secretary" in the first sentence, the words, ", the Secretary of Health and Human Services,"; and

(2) by striking out the words "of Health, Education, and Welfare" in the second sentence and inserting in lieu thereof the words ", Department of Health and Human Services,".

(k) Section 1411 of the Defense Dependents' Education Act of 1978 is amended:

(1) by inserting in subsection (a) (1) thereof after the words "Assistant Secretary")"the words...

"and principal officer of the Department of Education responsible for the office established pursuant to section 207 of the Department of Education Act,"

and by striking out in such subsection the word "Chairman" and inserting in lieu thereof "Co-chairmen";

(2) by adding in subsection (a)(2) thereof after the word Secretary," the words

"and the principal officer of the Department of Education responsible for the office established pursuant to section 207 of the Department of Education Act,";

(3) by striking out all of subparagraphs (A) and (B) of subsection (a)(3) thereof, inserting in lieu thereof the new subparagraph (A) which shall read—

"(A) the Secretary of Education,"

and relettering subparagraphs (C), (D), and (E) of paragraph (3) as (B), (C), and (D), respectively; and

(4) by adding to subsection (c) thereof a new paragraph (2) which shall read

"(2) make recommendations to the Director and to the Secretary of Education on the orderly transfer of the functions of under the Dependents' Education Act of 1978 to the Secretary and Department of Education."

and renumbering paragraphs (2), (3) and (4) of subsection (c) as paragraphs (3), (4), and (5), respectively.

(l) Section 103(c)(2)(B) of the Elementary and Secondary Education Act of 1965 is amended by adding at the end thereof the following new sentence:

"The Secretary of Health and Human Services shall transmit the information required by this subparagraph to the Secretary of Education not later than February 1 of each year."

REDESIGNATION

SEC. 509. (a) The Department of Health, Education, and Welfare is hereby redesignated the Department of Health and Human Services, and the Secretary of Health, Education, and Welfare or any other official of the Department of Health, Education, and Welfare is hereby redesignated the Secretary or official, as appropriate, of Health and Human Services.

(b) Any reference to the Department of Health, Education, and Welfare, the Secretary of Health, Education, and Welfare or any other official of the Department of Health, Education, and Welfare in any law, rule, regulation, certificate, directive, instruction or other official paper in force on the effective date of this Act will be deemed to refer

and apply to the Department of Health and Human Services, the Secretary of Health and Human Services, respectively, except to the extent such reference is to a function or program transferred to the Secretary under this Act.

TRANSITION

SEC. 510. With the consent of the appropriate department or agency head concerned, the Secretary is authorized to utilize the services of such officers, employees and other personnel of the departments and agencies from which functions, offices or programs have been transferred to the Secretary, and funds appropriated to such functions, offices or programs, for such period of time as may reasonably be needed to facilitate the orderly implementation of this Act.

TITLE VI—EFFECTIVE DATE AND INTERIM APPOINTMENTS

EFFECTIVE DATE

SEC. 601. The provisions of this Act shall take effect one hundred eighty days after the Secretary first takes office, or on such earlier date as the President may prescribe and publish in the Federal Register, except that at any time after the date of enactment of this Act, (1) any of the officers provided for in title II of this Act may be nominated and appointed, as provided in such title, and (2) the Secretary may promulgate regulations pursuant to section 505(b)(2) of this Act. Funds available to any Department or agency (or any official or component thereof), the functions, offices or programs of which are transferred to the Secretary by this Act, may, with the approval of the Director of the Office of Management and Budget, be used to pay the compensation and expenses of any officer appointed pursuant to this title and other transitional and planning expenses associated with establishment of the Department or transfer of functions, offices or programs thereto until such time as funds for these purposes are otherwise available.

INTERIM APPOINTMENTS

SEC. 602. In the event that one or more officers required by this Act to be appointed by and with the advice and consent of the Senate shall not have taken office on the effective date of this Act, and notwithstanding any other provision of law, the President may designate any officer in the executive branch to act in such office until the office is filled. While so acting, any such officer shall receive compensation at the rate provided under this Act for the office in which he or she acts.

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